



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

**DEPARTMENT OF
TELECOMMUNICATIONS & ENERGY**

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April 15, 2003

Jeffrey M. Bernstein, Esq.
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585 Boylston Street, Suite 400
Boston, MA 02116

Cheryl M. Kimball, Esq.
Keegan, Werlin, & Pabian, LLP
21 Custom House Street
Boston, MA 02110

Re: Cape Light Compact, D.T.E. 03-33

Dear Attorneys Bernstein and Kimball:

On March 13, 2003, the Cape Light Compact ("Compact") filed a petition with the Department of Telecommunications and Energy ("Department") regarding certain disputes with Commonwealth Electric Company d/b/a NSTAR Electric ("NSTAR") pertaining to the administration and conduct of the Compact's energy efficiency plan ("Petition"). On March 21, 2003, NSTAR filed a response to the Petition ("Response"). The Department docketed this matter as D.T.E. 03-33.

The Compact alleges that NSTAR has refused to provide the Compact with the customer telephone number data to which it is entitled as a program administrator of energy

efficiency services. Further, the Compact seeks an executed energy efficiency operating agreement with NSTAR to address the energy efficiency programs being provided by the Compact to customers on Cape Cod and Martha's Vineyard pursuant to the Department's Order in Cape Light Compact, D.T.E. 00-47-C (2001), as well as a Department finding NSTAR shall reimburse the Compact for all administrative, consultant and legal expenses regarding this proceeding (Petition at 17). NSTAR requests that the Petition be denied, arguing that NSTAR is willing to provide the telephone number data so long as the Compact agrees to refrain from using those numbers for solicitation purposes (Response at 1). Further, NSTAR argues that it has not indicated an unwillingness to negotiate a new operating agreement, thereby making Department involvement on this issue premature, and that reimbursement for this proceeding would be inconsistent with Department precedent (id. at 2).

The Department will hold a procedural conference on Tuesday, April 22, 2003 at 2:00 p.m. in hearing room C. The parties should be prepared to discuss the format for proceeding with this docket (i.e., via a comment process or adjudicatory hearings), as well as the anticipated time needs regarding discovery, prefiled testimony, and availability for evidentiary hearings.

Thank you for your attention to this matter. Should you have any questions, please contact me at 617.305.3624.

Sincerely,

Kevin F. Penders
Hearing Officer

cc: Mary L. Cottrell, Secretary
Service List, D.T.E. 00-47-C